

PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

Interest: Paging, cellular, and PCS trade association.

Substantial similarity between services:

- Supports ensuring symmetrical regulatory treatment of competing providers, as well as promoting further competition and economic growth and establishing an overall appropriate level of regulation for such services. (2-3)
- Argues for special consideration for measures for improving the speed of application processing generally. (2-3)
- Concurs that examining consumer demand-based and service-oriented factors should lead to CMRS categories reflecting market realities, as well as that: (1) wide-area SMR service and cellular service and (2) private and common carrier paging are "substantially similar." (4-5)

Creating comparable regulatory requirements: Agrees that exact duplication of service rules is not required; argues that the ultimate goal should be to assure comparable competitive footing recognizing that technical differences can exist. (6-7)

Spectrum aggregation caps: Opposes a general CMRS spectrum cap in favor of service-specific aggregation rules, arguing that a cap constrains carriers' flexibility to enter new wireless markets without any identifiable public interest benefit and that the proposal raises serious implementation questions. (7-9)

Technical rule change proposals:

- **Channel assignment rules, service area definitions, transition provisions, co-channel interference criteria:** Agrees that Part 22 assignment procedures for CMRS will achieve some comparability, but argues that market area licensing for CMRS services like paging should be adopted and that licensees should be permitted to make minor system changes without prior approval or notification. (10-12)
- **Antenna height and power limits:** Supports conforming height and power limits for functionally similar services by raising limits to a uniform threshold. (12)

- **Modulation and emission requirements:** Generally concurs with eliminating technical modulation requirements in favor of relying on emission masks and suggests permitting additional flexibility in cases where the same entity operates two or more adjacent channels. (13-14)
- **Interoperability:** Opposes interoperability requirements for CMRS providers as unnecessary. (14)

Operational rule change proposals:

- **Construction periods and coverage requirements:** Supports the proposed 12 month CMRS construction timetable, but urges redefining "availability of service to the public"; cautions that in some cases an extended implementation period may be warranted, and suggests adopting a uniform 90 day period for temporary discontinuances of service. (15-17)
- **Loading requirements:** Supports eliminating both loading requirements and traffic studies. (17)
- **End user eligibility:** Supports eliminating all user eligibility limitations for CMRS providers. (18)
- **Permissible uses:** Supports eliminating restrictions on permissible communications, as well as permitting liberalized use of common or private carrier facilities for incidental and auxiliary communications. (18-19)
- **Station identification:** Supports eliminating station identification requirements where interfering facilities can be identified from Commission records, and suggests, for other cases, revising the requirement to once an hour on or near the hour. (19-20)
- **General licensee obligations:** Concurr that general licensee obligations are similar, but suggests that certain practices allowing greater division of responsibility between a licensee and a system manager could be beneficial. (20)
- **Equal employment opportunities:** Supports extending EEO obligations to all CMRS carriers, but believes it may be appropriate to revisit the 16 employee exemption. (20-21)
- **Forfeiture guidelines:** Believes comparable forfeiture standards must be applied to all CMRS licensees, but also suggests revising the guidelines to recognize the

effects of the forfeiture provisions on small CMRS operators. (38-39)

Licensing rules and procedures

- **Comments on new application forms:**
 - Supports a single modular application form for use by all applicants, but suggests it is appropriate to address the form's content after the rulemaking is completed. (21-23)
 - Recommends adopting a new notification of status of facilities form, providing computer-generated notifications near the end of the construction period requesting confirmation that construction has been completed, creating a uniform form for transfer and control applications, and adopting other speed of processing reforms. (24-27)
- **Application form transition provisions:** Favors single cut-over date for using new forms. (24)
- **Application fees/regulatory fees:** Supports requiring all CMRS licensees to pay similar licensing and regulatory fees. (27-29)
- **Public notice and petition to deny procedures, mutually exclusive applications, amendment of applications and license modifications:** Requests limiting what constitutes "major" modifications or amendments; adopting the Part 22 procedures for modification of existing authorizations; and restricting monetary payments to third parties to settle contested proceedings. (29-34)
- **Conditional and special temporary authority:** Suggests exploring means of allowing pre-authorization operation of CMRS facilities, such as the use of blanket STAs. (34-35)
- **Pre-authorization construction:** Suggests general reforms to extend opportunities for pre-construction. (34)
- **License term and renewal expectancies:** Supports the proposed license term of ten years and extension of the cellular renewal policies to all CMRS operators. (35-36)
- **Transfers of control and assignments:** Supports measures to deter speculative filings, but believes competitive bidding dictates free alienation policies. (36)

- **Licensing of combined CMRS/PMRS services:** Urges extending comparable flexibility to provide both CMRS and PMRS offerings to all CMRS licensees. (36-37)

Other:

- Supports a "finder's preference" to recapture unused spectrum. (37-38)
- Advocates permitting licensing of up to 99 transmitters per call sign as under the Part 22 procedures. (38)
- Believes CMRS rules should accommodate the optional licensing of standby facilities. (21)
- Supports eliminating or reducing microfiche requirements in favor of electronic filing, but argues comparable requirements should apply to all CMRS licensees.
- Believes changes are needed to the Part 21 and Part 94 microwave policies and suggests a *Third NPRM*.

PITTENCRIEFF COMMUNICATIONS, INC.

Interest: SMR provider.

Substantial similarity between services:

- Anticipates that Digital Mobile Network will provide substantially similar wireless communications services to the subscriber as provided by cellular and PCS. (3)

Creating comparable regulatory requirements:

- Generally supports the Commission's efforts to achieve regulatory parity between CMRS providers that will provide similar services. (iii)
- Believes the Commission must address and provide relief from certain spectrum allocation and licensing issues in Part 90 that result in a significant disparity between the ability of wide-area systems to compete with the more dominant cellular carriers. (2)

Spectrum aggregation caps:

- "Reluctant to support" the proposed spectrum cap. (15)
- Argues that the spectrum aggregation cap should be higher than 40 MHz and/or the attribution interest should be significantly increased. (16)
- Urges that SMR spectrum, for purposes of aggregation levels, be accorded a lower valuation level. Suggests that level be at least one-third less than that accorded to cellular spectrum. (16)

Technical rule change proposals:

- **Channel assignment rules:**
 - Believes channel-by-channel assignment now used in the SMRS results in an inefficient method of licensing and will place wide-area SMRs at a serious disadvantage. (5)
 - Urges the Commission to facilitate channel "swapping" among 800 MHz SMRs so as to provide wide-area SMR operators the flexibility to determine their own channel plan. (7)
 - Re-assignment of frequencies should not be premised on a mobile-based test. (7-8)

- **Service area definitions/transition provisions:**
 - Supports adoption of a defined geographic area in which an SMR operator is permitted to develop and operate a wide-area SMR system. (5)
 - Recommends that the Commission identify a defined geographic area in order to avoid speculation problems that might accompany self-defined service areas. (6)
 - Suggests either the Metropolitan Trading Area or Basic Trading Area, as adopted in PCS, be used for wide-area SMR licensing. (6)
- **Co-channel interference criteria:** Encourages the adoption of an interference standard based on a 40/17 dBu contour model. (8)
- **Antenna height and power limits:** Urges the Commission not to modify the existing antenna height/ERP standards found in Section 90.635 of the Commission's rules. (9)
- **Modulation and emission requirements:**
 - Recommends that the Commission not place any restrictions on modulation and emissions that an SMR operator on an exclusive channel may use. (10)
 - Agrees that the required emissions masks in the 800 MHz band must be retained. (9)
- **Interoperability:** Argues that no interoperability requirements should be imposed on wide-area SMR licensees because such a requirement might restrict advances in wireless mobile communications. (10)

Operational rule change proposals:

- **Construction periods and coverage requirements:**
 - Not opposed to uniform 12-month period for all stations in Part 22 and Part 90 regardless of CMRS or PMRS classification. (11)
 - Supports proposal to adopt a longer construction period for wide-area SMR systems similar to the construction periods authorized for nationwide 220 MHz licensees and certain cellular licensees. (11)
- **Loading requirements:** Strongly supports elimination of loading restrictions. (11)

- **End user eligibility:** Agrees that SMR licensees reclassified as CMRS must be able to serve all persons. (12)
- **Permissible uses:** Concurs with proposal to eliminate permissible use restrictions on SMR systems reclassified as CMRS. (12)
- **Station identification:**
 - Supports proposal to permit wide-area SMR licensees to utilize one call sign for identification purposes. (13)
 - Suggests the issuance of one authorization for the entire wide-area SMR network would be more beneficial and would provide notice to other co-channel licensees. (13)
 - Recommends that the station identification requirement be eliminated for wide-area SMR systems. (13)

Licensing rules and procedures:

- **Public notice and petition to deny procedures:**
 - Argues that the current Part 90 application procedures would be unduly burdensome for wide-area SMR licensees. (13)
 - Believes the public notice requirement for cellular licensees or other Part 22 licensees is not as burdensome as Part 90 procedures because certain relocations of facilities, additions of base stations, and technical parameters of existing facilities are considered minor modifications and are not subject to public notice requirements. (13)
- **Conditional and special temporary authority:** Urges the FCC to permit relocations and changes to technical parameters of Part 90 facilities without prior approval, particularly if stricter STA standards are to be imposed. (14)
- **License term and renewal expectancies:** Strongly supports the Commission's proposal to establish a 10 year license term for all CMRS licensees and to extend renewal expectancy to Part 90 CMRS licensees. (14)
- **Transfers of control and assignments:** Agrees that the assignment and transfer of control of a license should

be restricted until construction and operation of the system has been completed. (15)

Other:

• **Finder's Preference program modification:**

- Believes the Commission should either eliminate or modify the Finder's Preference program. (16)
- Recommends that, at a minimum, the Commission specifically shield persons taking assignment of an authorization from the Finder's Preference when the station is constructed and operational at the time of assignment. (17)

RAM MOBILE DATA USA LIMITED PARTNERSHIP

Interest: Provider of SMR land mobile data service.

Substantial similarity between services: Argues that because cellular and SMRs face similar competitive needs to serve wide-area markets, the SMR rules for wide-area service (including those applicable to 900 MHz SMRs) should be relaxed to approximate cellular standards and to give SMRs the benefits of common carrier licensing. (1,6)

Creating comparable regulatory requirements:

- Regulatory parity requires 900 MHz SMR licensing procedures to be modified to authorize wide-area systems that will, among other things, permit construction and operation within broad market area boundaries without the need for individual transmitter licensing. (2)
- Argues that is not practical to impose a partial system of common carrier regulation on SMR licensees without a complete overhaul of the method in which SMR systems are licensed. (15).

Spectrum aggregation caps:

- Strongly opposes the imposition of a spectrum cap, particularly on 900 MHz SMR systems. (14)
- Argues that there is no evidence whatsoever that a spectrum cap is necessary to maintain competition in the marketplace. (14)
- Urges that if such a cap is adopted it be limited to broadband spectrum services, and exclude, among other services, the 900 MHz SMRS. (14)
- States that the primary competitive concerns that bear watching--the ability of cellular carriers to subsidize data services on their own frequencies--would not be addressed by the application of spectrum caps to 900 MHz services. (15)

Technical rule change proposals:

- **Service area definitions/transition provisions:** Asserts that 900 MHz SMRs should be able to expand their systems, on a protected basis, to natural market boundaries, as cellular and private carrier paging service providers can. (1)

- **Co-channel interference criteria:**
 - The SMR co-channel interference rules should be amended to prevent interference only at or near service area boundaries, as is the case with cellular and PCS. (7)
 - Supports the approach proposed in the 900 MHz Phase II proceeding, whereby station-defined, co-channel protection criteria would be eliminated and 900 MHz SMR licensees would be required to limit their signal strength to 30 dBu at their service area borders. (7-8)
- **Antenna height and power limits:**
 - Proposes that Part 22 licensees be permitted to operate their base stations at 1000 watts. (8)
 - Supports reliance on the 1992 ANSI/IEEE standards for low-power, hand-held mobile units. (8)
- **Interoperability:**
 - Opposes any proposal to require interoperability between a 900 MHz SMR system and any other CMRS system, including another 900 MHz SMR system. (8)
 - Differences in the amount of spectrum available to cellular and 900 MHz SMR licenses and the development of 900 MHz SMR frequencies for innovative mobile data services and other applications makes the cellular rule impractical and contrary to the public interest as an obstacle to innovate technologies. (8)
 - SMR systems should not be required to be interoperable among other SMR systems because the costs would be prohibitive. (9)

Operational rule change proposals

- **Construction periods and coverage requirements:** Supports a 10-year construction period with construction benchmarks at the second, fifth and tenth years. (9)
- **Loading requirements:** Supports the Commission's proposal to eliminate loading requirements, including the 40-mile rule. (10)

- **End user eligibility:**
 - Agrees with the Commission's conclusion that user eligibility restrictions should be eliminated for all CMRS providers. (10)
 - Urges the Commission to eliminate the restriction as to all SMR systems, regardless of their regulatory classification, or at least to make clear that the elimination of the eligibility restriction applies to all entities licensed as CMRS providers, regardless of whether particular services they offer are CMRS. (10)
- **Station identification:** Supports the elimination of the station identification rules. (11)
- **Equal employment opportunities:** Strongly supports applying the equal employment opportunity rules to all CMRS providers. (11)

Licensing rules and procedures

- **Application fees:** Supports equivalent SMR and cellular fees as a matter of regulatory parity, but recommends such a change must accompany common carrier-type wide-area licensing for SMRs. (11-12)
- **Regulatory fees:**
 - Supports the proposed change in regulatory fees for all SMR licensees, including but not limited to CMRS operators, to a per subscriber basis. (12)
 - Notes that such a change will necessitate a change in the application fee for such systems, because, under the new SMR application fee schedule, regulatory fees are imbedded in the application fees for new licenses, renewals and reinstatements. (12)
- **Public notice and petition to deny procedures:**
 - Reluctantly agrees with the Commission's conclusions that public notice and petition to deny procedures will, subject to a three-year transition period, need to apply to all CMRS applications. (12)
 - Urges, however, that such procedures not be implemented until such time as new rules providing

for wide-area licensing for wide-area 900 MHz SMR providers are put into place. (12)

- Urges that the prospect of such new procedural requirements is strong reason for the Commission to make the definition of minor amendments not subject to such procedures as broad as reasonably possible. (12)

- **Mutually exclusive applications:**

- Argues that public interest considerations require that those who make investments in initial fragmentary DFA markets have the ability to protect and expand their systems to natural market boundaries, without being subject to mutually exclusive applications. (4)
- Believes that it is consistent with the basic premise of the Commission's proposal that existing 900 MHz Phase II licensees should be given the opportunity to expand their systems without being subject to mutually exclusive applicants from those who have not established a presence in the Phase I DFAs. (4)
- Interprets the Budget Act to make clear that the Commission should seek first "to avoid mutual exclusivity" by the application of "threshold qualifications, service regulations, and other means." (5)

- **Amendment of applications and license modifications:**

- Argues that the proposed standard set forth in the Further Notice of a 2 kilometer move for distinguishing between major and minor modifications to a license is not relevant to cellular licensees, who are permitted to construct new transmitters within their authorized service areas. (5)
- Maintains that the proposed standard should also not apply to 900 MHz SMR licensees. (5)

- **Licensing of combined CMRS/PMRS services:**

- Agrees that mobile service providers should be able to provide CMRS and PMRS services under a single license and that, if some of the services to be provided are CMRS, as a practical matter, CMRS licensing procedures should apply. (13)

- Believes that ultimately the Commission should consider applying CMRS procedures to all SMR applications even if no CMRS service is offered because of the potential administrative nightmare that could occur by subjecting applications for the same frequencies to different licensing mechanisms. (13)
 - Urges that the approach suggested by the Commission of asking applicants to identify different portions of the assigned spectrum that would be used for CMRS and PMRS services is not practical or, in some cases, even possible. (13)
 - **Conversion to CMRS status by existing Part 90 licensees:**
 - Agrees with the Commission's approach of allowing Part 90 licensees to notify the Commission of a change in CMRS status to reflect, among other things, their current or planned interconnected status. (13)
 - Suggests that any window for filing only be applicable to existing or then-planned status and that future changes in status should be reflected in notification filings as changes in a particular licensee's manner of offering service may require. (13-14)
- Other:** Urges that modified MTAs offer an equitable means for transitioning existing 900 MHz SMR Phase I licensees to licensing on a wide-area basis. (7)

RAM TECHNOLOGIES, INC.

Interest: Common carrier and private carrier paging provider.

Substantial similarity between services: Urges the FCC to continue to treat shared frequency services differently from exclusive frequency services. Thus, shared PCP assignments should not be considered substantially similar to Part 22 paging operations. (7-8)

Creating comparable regulatory requirements:

- When faced with two alternative rules or regulations, the Commission should choose the alternative that would be most practical and least burdensome for the mobile radio industry. (4)
- In view of the unique needs of shared frequency operators, the FCC should streamline and consolidate the shared use rules in one place, apart from the rules applicable to exclusive operations. (6)

Spectrum aggregation caps:

- Generally argues that the imposition of a spectrum cap is too late and does not reconcile with the Commission's "fondness for auctions." (20-21)
- Rather than punishing "big guys," the Commission should try to ensure that smaller players also have a fair opportunity to obtain usable spectrum, perhaps by levelling the playing field between large and small business in the auction process. (21)

Technical rule change proposals:

- At the outset, Ram Technologies urges the FCC to strive for technical and operational comparability wherever possible throughout all mobile service rules, not just those applicable to "substantially similar" CMRS operations. (9)
- Also suggests that, in formulating these rule changes, the Commission should attempt to foster efficient use of scarce spectrum. (14)
- **Channel assignment rules, service area definitions:** Suggests two proposals for future spectrum allocations or for the allocation of unused spectrum: (1) allow the applicant to select a channel assignment model (i.e., to

serve a particular community, county, or mile radius); and/or (2) establish various frequency pools with different channel assignment policies. (10-11)

- **Co-channel interference criteria:** Urges the FCC to safeguard its duty to ensure that licensees are not subjected to harmful interference, but also suggests that, when third parties or licensing decisions cause "injury" to PCP and shared frequency licensees, PCP licensees should be entitled to relief to the fullest extent possible. (11-14)

Operational rule change proposals:

- **Construction periods and coverage requirements:**
 - All CMRS providers should be subject to the same construction requirements. Thus, PCPs should have the 12 month construction period. (15-16)
 - Disagrees with the proposed new definition of "constructed" as meaning "constructed and providing service to at least two unaffiliated third parties," because there is no correlation between the number of active subscribers and the fact that a station has been timely constructed. (15)
 - Moreover, the "two unaffiliated parties" rule is unnecessary to curb warehousing, is impractical, and is unenforceable. (15-16)
 - Suggests that the rules should simply require a station to be fully operational prior to the expiration of the construction period, and rely on something similar to the "finder's preference" program for enforcement. (17)
 - Favors extended construction periods but believes that the existing rules are arbitrary and discriminatory. The FCC should devise a standard set of benchmarks that must be met to qualify for extended construction, driven by market size or number of transmitters. (17-18)
- **Loading requirements, and user eligibility:** Should be eliminated across the board. (18)
- **Permissible uses:** Restrictions are essential as applied to shared frequencies. In other circumstances, however, these rules should be revisited or clarified. For example, it is unclear what the Part 90 prohibition against "broadcasting" means for paging operators that

disseminate news and financial data to their subscribers via alphanumeric pagers. (18-19)

- **Station identification:** Agrees with the proposal to allow multiple station systems to do station identification with one call sign, and that licensees should be able to do so with a digital format. (19)
- **Equal employment opportunities:** Supports proposed extension to all CMRS operators, and favors 16 employee cut-off. (19)

Licensing rules and procedures:

- **Comments on new application form:** Believes that the new form is excessively complicated because it unnecessarily reiterates various eligibility criteria and continues to require microfiche copies from certain CMRS applicants. (22-23)
- **Application fees/regulatory fees:** Disagrees with the proposal to apply the higher Part 22 application and regulatory fees to all CMRS providers as inconsistent with Congress's mandate to ease regulatory burdens and with the FCC's obligations to license quickly and efficiently. Also maintains that none of these issues were adequately addressed in the Further Notice. (23-25)
- **Public notice and petition to deny procedures:** Conversion to Section 309 procedures should not delay the ability of Part 90 or Part 22 licensees to commence operations if the Commission: (1) dismisses frivolous petitions to deny by enforcing the "standing" requirement; (2) requires allegations of fact to be supported by an affidavit; and (3) permits conditional operation prior to expiration of the protest period. (25-26)
- **Amendment of applications and license modifications:**
 - Agrees with the Commission that modification applications should not be subject to competitive bidding and suggests that major amendments should be treated similarly. (27)
 - Urges the Commission to allow licensees to relocate control stations as a minor or permissible change, as long as it can be accomplished without causing harmful interference to other stations. (27)
- **License terms and renewal expectancy:** Agrees with the FCC that Part 90 licenses should be conformed to be 10

years long, and with the proposal to adopt a renewal expectancy for incumbent CMRS licensees. (28-29)

- **Transfers of control and assignments:** Urges the Commission to clarify the terms of its proposed public interest demonstration, and to permit exceptions to the construction requirement when there are unusual showings of need. (28)

Other: In view of the dramatic rule changes resulting from this proceeding, Ram Technologies urges the Commission to adopt a fairly generous "amnesty" period following adoption of the CMRS rules, to enable licensees to become familiar with the new rules. (19)

ROSEVILLE TELEPHONE COMPANY

Interest: Local exchange carrier and holder of a non-controlling limited partnership interest in a cellular telephone service provider.

Spectrum aggregation caps:

- Believes there is no demonstrable need for a CMRS spectrum aggregation cap at this time and urges the Commission to forebear from creating one. (3)
- Argues that, in the event such a cap is created, the attribution standard should be consistent with the cellular attribution standard for PCS. (4,6)
- Disagrees with Commission's view that the proposed 5 percent attribution standard is consistent with the PCS/cellular attribution standards. (5)
- Asserts that, if proposal in Further Notice is adopted, there would be greater restrictions for PCS eligibility on entities with interests in cellular operations than the restrictions imposed in the PCS proceeding. (6)
- The proposed attribution standard would make it even more difficult for similarly situated companies to participate in PCS. (6)
- Proposes that, where an entity has a non-controlling interest of less than 20 percent in a cellular licensee, that interest should be non-attributable for the purposes of a CMRS spectrum aggregation cap. In addition, designated entities should be allowed to hold a non-controlling interest of up to 40 percent in a cellular licensee, and cellular licensees should be allowed to hold up to 40 percent of a PCS licensee controlled by members of minority groups and/or women. (7)

RURAL CELLULAR ASSOCIATION

Interest: Association comprised of small cellular operators that provide service to rural locations.

Substantial similarity between services: The narrowband services provided by rural telephone companies are not substantially similar to cellular and PCS services. (10)

Spectrum aggregation caps:

- The spectrum cap, if properly implemented, could ensure that licenses are disseminated among a wide variety of applicants, but should not be applied to cellular and other CMRS licensees affiliated with rural telephone companies. Such a cap would inhibit the provision of radio-based telecommunications services to rural America, violating the Congressional mandate in the Budget Act to adopt rules that promote the provision of service to rural America. (2-3, 5-6)
- Rural telephone companies should not be limited in the amount of spectrum they can access because the prohibitive costs of wire services in rural locations force rural telephone companies to rely on radio-based services. (6)
- Raising the cellular ownership attribution level to 40 percent does not resolve the problems a spectrum cap would pose for rural telephone companies. (7)
- If the Commission does impose a cap, it should only apply to broadband spectrum. A cap on narrowband spectrum would unduly restrict the availability of diverse services in rural locations. (9-10)
- There is no policy justification for capping narrowband spectrum used by rural telephone companies. Narrowband services constitute discrete markets and do not compete with broadband voice services used by rural telephone companies to provide cellular service. (10)
- With respect to entities other than rural telephone companies, RCA agrees with the Commission that a 40 MHz limit on broadband CMRS spectrum would be consistent with the FCC's PCS allocation rules. (9 n.7)

RUSS MILLER RENTAL

Interest: SMR operator.

Substantial similarity between services:

- Agrees with Commission's determinations of substantially similar services. (2)
- Notes that there is a difference between wide area digital ESMR service and traditional SMR service. (2)
- Asserts that wide area digital ESMR closely approximates cellular service with a large number of channels and wide area coverage. (2-3)
- States that the traditional analog SMR is akin to Part 90 community repeater operation. (3)

Creating comparable regulatory requirements:

- Believes investment decisions should be driven by consumer demands rather than regulations. (2)
- Argues that traditional SMRs must be allowed the regulatory flexibility to migrate to new technologies as they become available, including digital formats such as ESMR. (4)

Technical rule change proposals

- **Channel assignment rules:** Believes lack of channel availability--except in the most sparsely populated areas--has led to the consolidation of SMR operators. (5)
- **Service area definitions/transition provisions:**
 - Proposes that the Commission allow ESMR operators to add stations or relocate their stations within the operator's self-defined service area as minor modifications (much like Part 22 fill-in stations) so long as the relocations do not extend the service area or encroach upon other licensees' 70 mile co-channel protection. (5-6)
 - Does not believe that ESMR operators should be afforded contiguous spectrum by regulation. If an ESMR operator desires contiguous spectrum over its service area, it should turn to the marketplace. (6)

- Argues that a reallocation of the 800 MHz frequency band in order to achieve contiguous spectrum would result in a harmful disruption of service to subscribers. (6)
- **Antenna height and power limits:** Sees no need to change the power and antenna height rules. (5)
- **Modulation and emission requirements:** Sees no need to change emission masks rules. (5)

Licensing rules and procedures

- **Public notice and petition to deny procedures:**
 - Supports the use of standard Part 22 public notice and petition to deny procedures in the licensing of heretofore private 800 MHz services. (6)
 - Believes petitions to deny should not be allowed for "frivolous purposes" such as increased competition to the petitioner. (7)
 - Argues that windows to file competing applications will not serve the public interest and will only delay the delivery of services to the public. (7)

SEA, INC.

Interest: Manufacturer and supplier of narrowband radio equipment and licensee and service provider for 220 MHz service.

Substantial similarity between services:

- 220 MHz systems that might be classified as CMRS should not be regulated as though they are substantially similar to other CMRS offerings such as cellular and wide-area SMRs. (3-9)
- The Commission should remember that 220 MHz service was created to provide a test bed for the deployment of narrowband equipment in the marketplace in order to encourage the meaningful development of narrowband in other portions of the spectrum. Subjecting the 220 MHz services to regulations applied to cellular services will burden development of narrowband technologies, thereby undermining the purpose for creating 220 MHz services. (4-8)
- Most 220 MHz systems have not been constructed, making it difficult to predict whether commercial 220 MHz licensees will, in fact, provide service that is substantially similar to any Part 22 service. (6)
- Due to the limited amount of spectrum available to 220 MHz licensees, it appears unlikely that 220 MHz licensees will ever be able to offer services similar to those provided by cellular, 800 MHz ESMR, or the new PCS service. (6)
- Users of dispatch services are accustomed to the half-duplex (push-to-talk) service available from 220 MHz licensees. Cellular customers will not view half-duplex service provided by 220 MHz licensees as substantially similar to the full-duplex interconnected service to which they are accustomed. (6-7)
- Commercial 220 MHz licensees offering interconnect capability will most likely do so only to enhance the convenience of the primary dispatch service for their customers, rather than offering it to compete with the full-duplex telephone services offered by the cellular and ESMR carriers. (7)

Other:

- SunCom's petition requesting aggregation of non-nationwide 220 MHz five-channel blocks on a regional basis should be denied. (9-19)
- SunCom's desire to aggregate 220 MHz channels to compete with cellular, ESMR, and PCS services is misguided because the 220 MHz services were created to foster rapid development of narrowband technology, not to compete with cellular services. (10, 17-18)
- The Commission has previously adopted a framework of channel allocations that provides for aggregation of channels in the future, if necessary. Many licensees have relied on this framework and it should be given an opportunity to prove itself in the marketplace before being overhauled, as SunCom requests. (10-12, 15-16)
- If these rules are to be fundamentally changed to allow immediate aggregation of channels, they should be amended following notice and comment and all persons should be allowed to apply for the newly created licenses. The rules should not be changed through the ad hoc method suggested by SunCom. (16)
- SunCom's petition may be an attempt to circumvent the financial qualification criteria of the rules governing 220 MHz nationwide licenses. (12-13)
- SunCom's petition seeking relief from the eight-month construction requirement of Section 90.725(f) should be denied because it is contradictory to the Commission's stated goals of promoting rapid development of narrowband technologies and preventing speculation. (14)

SIMRON, INC.

Interest: Communications construction and management firm that specializes in the funding, construction, and management of 220-222 MHz systems.

Substantial similarity between services:

- Because of its nascent state and substantial technical limitations (very narrowband, voice limitations) 220 MHz operations are substantially different from operations at 800 and 900 MHz, and the Commission should devise its regulatory treatment of these services carefully. (3-5)
- The Commission should determine that interconnected 220 MHz service is substantially similar to narrowband PCS service, but not to any Part 22 services. (5-7)
- However, the Commission must recognize that the area-based licenses for narrowband PCS do not presently provide a relevant role model for the site-based local 220 MHz licenses. (7)

Technical rule change proposals:

- **Channel assignment rules:**
 - Once the Commission determines that CMRS 220 MHz operations are substantially similar to narrowband PCS, it should adopt a PCS-like, area-based licensing system for these operators. (8)
 - Conversion should take place after expiration of the initial 220 MHz local licensing deadline. (8)
 - Constructed operators should then be allowed to secure area-based licenses in a manner similar to the 900 MHz PCP exclusivity process. (8)
 - Simron supports the relief sought by SunCom, which is similar to this proposal. (9)
 - The Commission should repeal 47 C.F.R. § 90.739, and allow applicants to acquire licenses as their needs and finances dictate. To the extent that channel acquisition limits are necessary, they should parallel the narrowband PCS limits (9-10, n.10)

- **Co-channel interference protection criteria, antenna height and power limits, interoperability:** Favors retention of the existing rules for 220 MHz operations, but would not oppose long-term interoperability within the 220 MHz band. (11-12)

Operational rules:

- **Construction periods and coverage requirements:**
 - Favors extended implementation for 220 MHz systems, and supports SunCom's petition in most respects except that Simron does not agree with SunCom that a single licensee must own the entire regional system in order to qualify for extended implementation. Rather, extended implementation should be available to commonly managed or commonly owned systems. (13-14)
 - Unless the Commission acts on the SunCom request by August 10, 1994, it should grant an interim waiver of the 220 MHz construction rules to SunCom and similarly situated entities, pending final action. (14-15)
 - Simron supports a 12-month construction period for all CMRS licensees. However, as part of this, the Commission should extend all currently unsatisfied Part 90 construction deadlines 4 months. (15-16)
 - The Commission should grant an indefinite extension of the construction deadlines for all 220 MHz authorizations north of Line A until the U.S. - Canadian 220 MHz negotiations are completed. (16-17)

Licensing rules and procedures:

- **Amendment of applications and license modifications:**
 - The freeze on the filing of 220 MHz applications (including modification applications) has resulted in the construction of many facilities under special temporary authorizations. These parties, which could lose their authorizations if new applicants obtain a permanent authorization within 70 miles, should be allowed to file their modifications before new applications may be filed and certainly before the existing construction deadline passes. (18)